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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XD991**

**Presidential Task Force on Combating Illegal Unreported and Unregulated (IUU) Fishing and Seafood Fraud Action Plan for Implementing Recommendations 14/15; Determining Types of Information and Operational Standards Related to Data Collection**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; request for comments.

**SUMMARY:** The National Ocean Council Committee on IUU Fishing and Seafood Fraud (NOC Committee) is seeking public input on the minimum types of information necessary for an effective seafood traceability program to combat IUU fishing and seafood fraud, as well as the operational standards related to collecting, verifying and securing that data.

**DATES:** Comments must be received by *[insert date 30 days after date of publication in the Federal Register]*.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2014-0090, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0090](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0090), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Melissa Beaudry, Quality Officer, Office of International Affairs and Seafood Inspection, 1315 East-West Highway, Suite 9511, Silver Spring, MD 20910.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the comment period, may not be considered. All comments received are part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. Anonymous comments will be accepted (enter "N/A" in the required field if you wish to remain anonymous.)

**FOR FURTHER INFORMATION CONTACT:** Melissa Beaudry, Quality Officer, Office of International Affairs and Seafood Inspection; 301-427-8308.

**SUPPLEMENTARY INFORMATION:** On March 15, 2015, the Presidential Task Force on Combating IUU Fishing and Seafood Fraud (Task

Force), co-chaired by the Departments of Commerce and State, published its Action Plan for Implementing the Task Force Recommendations

(<http://www.nmfs.noaa.gov/ia/iuu/taskforce.html>).

The Action Plan articulates the steps that Federal agencies will take to implement the recommendations the Task Force made to the President in December 2014 on a comprehensive framework of integrated programs to combat IUU fishing and seafood fraud. The plan identifies actions that will strengthen enforcement, create and expand partnerships with state and local governments, industry, and non-governmental organizations, and create a risk-based traceability program to track seafood from harvest to point of entry into U.S. commerce, including the use of existing traceability mechanisms. The work initiated by the Task Force is now under the oversight of a National Ocean Council (NOC) Committee. The design of the traceability program will be led by an interagency working group.

This notice is among the first steps in implementing Task Force Recommendations 14 and 15, specifically, developing types of information and operational standards related to data collection. The data collected will establish a foundation for the risk-based seafood traceability program to combat IUU fishing and seafood fraud from harvest (wild-capture or aquaculture) to point of entry into U.S. commerce, as described

in the Task Force Action Plan. This data is being collected for use by appropriate government officials.

With this notice, the Committee is *soliciting comments* on the minimum types of information that should be collected and the operational standards to be applied to this data. The data collected should include, but is not limited to, the following information:

1) Who harvested or produced the fish?

- Name of harvesting vessel;
- Flag State of harvesting vessel;
- Name of farm or aquaculture facility;
- Name of processor; and
- Type of fishing gear.

2) What fish was harvested and processed?

- Species of fish;
- Product description;
- Name of product;
- Form of the product; and
- Quantity and/or weight of the product.

3) Where and when was the fish harvested and landed?

- Area of wild-capture or aquaculture harvest;
- Harvest date(s);
- Name and location of aquaculture facility;

- Point of first landing;
- Date of first landing;

The Committee also believes the following information logically should be considered:

4) What was the chain of custody of the fish or fish product through the supply chain to point of entry into U.S. commerce including:

- Transshipment of product; and,
- Processing, re-processing, or co-mingling of product

The Committee *seeks comment* regarding the information needed to answer the four questions posed above, as well as any additional information necessary for the implementation of an effective risk-based seafood traceability program. An effective traceability system must be capable of capturing a complex supply chain which may involve reprocessing, mixed species, cold storage holding, trans-shipments, etc., as well as the simple harvest of a single species.

Given the scope of the traceability system anticipated in the Action Plan, additional data required for fish harvested in U.S. domestic fisheries is minimal because domestically harvested fish enters U.S. commerce at its first point of landing and, to a large extent, relevant data are already

generated and reported through existing state and federal permitting, catch monitoring, and landing reports implemented under federal and state fishery management plans. At-risk species that are harvested domestically, exported for reprocessing, and then re-imported to the U.S. may require traceability throughout that entire supply chain.

The Operational standards to apply to the data collected may include, but are not limited to, the following:

- How the data are to be collected;
- Interoperability with existing traceability systems;
- Who has responsibility for collecting the data;
- How the data will be verified; and
- Data security.

#### **Who harvested or produced the fish?**

This information establishes the starting point of the traceability process. Although this information is straightforward in many cases, operational characteristics of some fisheries present challenges. Traceability of an operation in which easily identified, individual vessels deliver directly to a buyer or processor may be relatively simple. However in a fishery with tender vessels taking deliveries from many smaller harvesting boats, collection of this information could become burdensome. In this instance, the Committee currently

anticipates requiring only the name of the tender vessels making traceable deliveries to a buyer or processor. *Comments are requested* as to what information, if any, is necessary regarding the harvesting vessel name and flag state and authorization to harvest the species in question for the implementation of an effective traceability program.

Aquacultured species are easier to trace back to a particular pond or region, and the Action Plan states that the traceability process shall start at the point of harvest. It is therefore unlikely that facility information for the raising of the breeders or the fingerlings, depending upon the fishery, will be included in the traceability program. Also, the body of water for a farm-raised species could have several aquaculture facilities in place by different companies. The Committee *requests comments* addressing the whether the aquaculture facility or the body of water is appropriate point of origin in a traceability system for aquacultured species.

Processor and gear type are common elements in many fishery traceability systems. Processors may already be required to trace their products through some portion of the supply chain. The Committee considers information related to processing and/or reprocessing of product to be critical to tracking chain-of-custody, notes that this information is required for existing global traceability programs, and anticipates the requirement of

such data as a part of this traceability program. This would include information about primary processors and secondary processors who maintained custody of the shipment prior to entering the United States.

In the context of seafood traceability, gear information helps to link specific vessels to the fishery in which they participate and the species they harvest. The Committee intends to require gear type information for the proposed traceability system and requests comments as to whether and what gear type information should be collected for traceability.

#### **What fish was harvested and processed?**

A traceability system to combat IUU fishing and seafood fraud requires certain minimal information, including the species of the fish, the quantity and/or weight of the catch, and the form of the product. The state of the shipment (live, raw/fresh, or frozen) and the type of product informs the calculation of the actual amount of fish harvested, as well as the potential risk for fraud associated with the product. The Committee therefore intends to request this information and *seeks comments* regarding its use for traceability purposes as well as suggestions for alternative approaches to trace fish and seafood products in various forms.

The Committee is considering a range of options with respect to species identification, including scientific names,



names on the U.S. Food and Drug Administration approved list, and common or market names. Use of scientific names may minimize confusion at the border. As common or market names tend to group similar species, requiring the scientific name could dramatically increase the number of species names listed, thereby increasing the possibility of reporting error. However, using common or market names could be used to mask the import of a species at risk of IUU fishing or seafood fraud. The U.S. Food and Drug Administration approved list of fish names for labeling of fish in the United States may not cover all fish entering the United States and adding a market or common name to that list may take time. *Comments are requested* as to whether scientific names, common, usual, or market names, or some combination, should serve as the basis for species identification in the traceability program and be utilized for identifying imported product at the point of entry into U.S. commerce.

**Where and when was the fish harvested and landed?**

Collection of information identifying the area of harvest or the region in which an aquaculture facility is located, and the time at which the harvest took place, represents the initial "link" in the supply chain. It represents the action back to which the at-risk species entering U.S. commerce will be traced. For wild-capture fisheries, the Committee intends to identify

area of harvest by FAO catch area designation or comparable designation of fresh-water sources. The Committee has identified area or body of water and facility as data required for establishing where and when fish was harvested from an aquaculture source. The Committee *seeks comments* on the adequacy of this information for identifying where and when fish is harvested, alternative data that may be useful in tracing product to time and place of harvest, and methods for verifying the accuracy of data used for this purpose.

**What was the chain of custody through the supply chain to point of entry into U.S. commerce?**

As described above, identifying the point of harvest within an area or aquaculture facility is relatively straightforward. However, the global market for fish and seafood products supports complex supply chains, including transshipment to one or more locations prior to entry into U.S. commerce. Shipments may be co-mingled with similar species from other locations, complicating the process of traceability to point of harvest. An effective traceability system will require information on each point of landing, transshipment and processing throughout the fish or seafood product's chain of custody to point of entry into U.S. commerce. This would include not only the harvest for each shipment, but information regarding any further processing and transshipment that occurred prior to entry into U.S.

Commerce. *Comments are requested* as to the level of detailed information that should be required for country of harvest, transshipment, processing and re-processing, and co-mingling of product or species. The Committee *requests comments* regarding the appropriate data and standards for effective traceability at each stage of the supply chain from harvest to point of entry into U.S. commerce.

#### **How the data are to be collected**

The Committee recommends use of the International Trade Data System (ITDS) as the data collection portal for imports of species identified as at-risk of IUU fishing and seafood fraud. In an effort to streamline the import and export process, President Obama signed an Executive Order in February 2014 that requires ITDS to be completed and fully utilized by government agencies by December 2016. ITDS is a "single window" system which allows businesses to communicate with U.S. Customs and Border Protection (CBP) and its Partner Government Agencies (PGAs) when importing and exporting goods, eliminating the often duplicative and paper-based processes used previously. With ITDS, companies submit their information electronically, and the data elements can then be quickly and efficiently retrieved and used by the Federal agencies that require them. More information on ITDS can be found at [www.itds.gov](http://www.itds.gov).

**Consistency across Federal agencies and interoperability with existing international, federal, state, and non-governmental information systems**

Data at the border is currently collected both in electronic and hard copy formats. Hard copies are often scanned and then stored for future use. Use of the ITDS will not only simplify the collection of data by utilizing an electronic format, but interoperability of information is assured between all Federal agencies as only one data system is employed. The Committee anticipates the collection of data in electronic format using ITDS for ease of collection. With respect to interoperability of data captured and utilized by existing information systems, it is the Committee's intent to avoid, to the extent practicable, the establishment of redundant data collection processes or protocols that undermine the function and effectiveness of existing systems. While it is unlikely that ITDS will be capable of automatically "retrieving" data from existing databases, the Committee is interested in comments describing methods that will facilitate the use of existing systems to provide data identified in future traceability rule making. *Comments are also requested* regarding the proposed use of the ITDS, the potential use of other systems the Federal agencies should consider at the border, and if there are any barriers, known or perceived, in using the ITDS system.

**Who would collect the data?**

Use of the ITDS system to collect proposed data elements for imports of species identified as at risk of IUU fishing and seafood fraud would require the importer (or exporter to the USA) to enter the information along with any necessary supporting documentation. The importer would be responsible for ensuring that the necessary data elements are collected along the supply chain and provided to CBP through ITDS at the point of entry.

**How will the data be verified?**

A key element of these operational standards is data verification. The operational standards must provide relevant Federal agencies the ability to verify that documentation for at-risk seafood products is complete and accurate upon entry into U.S. commerce, and validate country-specific documents and certifications. The operational standards must also incorporate a system of data checks and periodic auditing. A system of trace-back audits would determine the quality and accuracy of the data submitted and identify missing information and discrepancies. *Comments are requested* regarding a system of audits of the documentation system for quality and accuracy.

**Data security**

As the additional data elements will be submitted through the Automated Commercial Environment (ACE)/ITDS single window as

part of an entry filing, the supplemental data will only be accessible to the entry filer, CBP, and Federal agencies with authorization to review entry filings for the designated commodities. Consequently, data security concerns are minimal. *Comments regarding additional considerations with respect to data security are requested.*

Following the public comment period, the NOC Committee will take the input received into consideration while finalizing recommendations that will be sent forward for appropriate agency action by September 2015, as outlined in the implementation plan for Task Force Recommendations 14 and 15.

Dated: June 26, 2015.

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John Henderschedt,

Director,

Office for International Affairs and Seafood Inspection,  
National Marine Fisheries Service.

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